

E-002/CG-91-524 ORDER CLARIFYING AND APPROVING POWER PURCHASE
AGREEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna
Patrice M. Vick

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Northern States
Power Company's Petition for
Approval of its Power Purchase
Agreement With Cyprus Silver Bay
Power Company

ISSUE DATE: October 17, 1991

DOCKET NO. E-002/CG-91-524

ORDER CLARIFYING AND APPROVING
POWER PURCHASE AGREEMENT

PROCEDURAL HISTORY

On July 19, 1991, Northern States Power Company (NSP) filed with the Commission a petition for approval of a power purchase agreement with Cyprus Silver Bay Power Company (CSBP).

On July 31, 1991, the Commission issued a Notice requesting comment on NSP's petition.

On August 30, 1991, the Minnesota Department of Public Service (the Department) filed comments on the petition recommending approval of the petition with one clarification.

On October 2, 1991, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

NSP requested that the Commission approve its Power Purchase Agreement (the Agreement) with CSBP and authorize it to recover from Minnesota retail customers the Minnesota jurisdictional portion of amounts paid for power and energy pursuant to the Agreement. The Agreement commits CSBP to sell and NSP to buy electric capacity and energy over a 20 year period beginning July 1, 1991.

The Agreement

NSP stated that the rates for purchase under the Agreement were based on the Commission's order on purchase rates for the Dakota County-Winona County project for determination of NSP's avoided

costs.¹ NSP said that the Agreement defined rates for purchase of power or capacity, energy, and transmission and distribution system losses. Performance commitments were associated with the purchase rates to ensure that NSP would obtain full avoided cost value for full avoided cost-based purchase rates.

NSP said there were two basic differences in the determination of the capacity purchase rates between the Dakota-Winona and CSBP projects. The first was that NSP has updated the avoided demand charge associated with short-term seasonal peaking capacity purchases. The second difference was related to timing differences, with CSBP coming on-line July 1, 1991, while the Dakota-Winona project is not now expected to start until at least 1993.

NSP said its energy purchase rates consist of rates for avoided fuel costs, avoided variable O&M costs, and avoided start-up costs. NSP said that while the Dakota-Winona contract called for actual avoided energy costs, the Agreement specifies a negotiated rate which insures that NSP can economically purchase energy equivalent to that associated with the range of operation of NSP's baseload plants. The Agreement provides that NSP may dispatch the CSBP plant, and pay only for energy scheduled by NSP. The energy rate will escalate over time to track the market price of coal, with periodic redetermination of the escalation rate to ensure appropriate tracking. The Agreement allows NSP to supply fuel to CSBP if this becomes more economical than other alternatives available to CSBP.

While NSP's purchase of power and energy from Dakota County and Winona County will allow NSP to avoid transmission and distribution losses on NSP's system, purchases from CSBP will increase transmission and distribution losses relative to avoided alternatives. The Agreement provides that CSBP will deliver additional power and energy to cover losses, at no charge.

The CSBP project differs from the Dakota-Winona project in that NSP can dispatch the CSBP power. Therefore, NSP will pay only for energy scheduled by NSP, and CSBP must maintain a minimum availability and maintain its facilities consistent with utility industry standards or be penalized.

¹ In the Matter of the Joint Petition of Dakota County and Winona County for an Order Resolving Disputes Relating to Purchases by Northern States Power Company of Electric Power from the Operation of Solid Waste Recovery Facilities to be Located in Dakota and Winona Counties, Minnesota, Docket No. E-002/CG-88-489, ORDER RESOLVING DISPUTES REGARDING TERMS OF CONTRACT BETWEEN UTILITY AND QUALIFYING FACILITIES (July 7, 1989).

The Agreement Clarified

In addition to requesting authority to charge Minnesota retail customers for the amounts it pays CSBP for power and energy at prices specified in the Agreement, NSP requested that the Commission authorize it to recover from Minnesota retail customers amounts paid for replacement power or energy "which may be incurred prudently" if CSBP does not fully perform under the Agreement.

The Commission finds that the language of the Agreement may be ambiguous in that it may imply that, if a purchase of replacement power becomes necessary for NSP to service its customers, any purchases of that power may be deemed prudent. To avoid any such implication, the Commission is notifying parties that it will apply the prudence standard to each actual replacement purchase made by NSP and will require that the replacement purchase be prudent both as to price and reliability.

The Agreement Approved

The Commission also notes that the legislature has expressed a clear public policy of encouraging cogeneration and small power production, consistent with the protection of ratepayers and the public. See Minn. Stat. § 237.164, subd. 1 (1990). In this case, the avoided costs calculated by NSP are based on the avoided cost formula approved by the Commission in the Dakota-Winona case. The Commission finds that the parties to the Agreement have been careful to fashion it in accordance with what the Commission found reasonable in the Dakota-Winona case. Where the Agreement differs from the Dakota-Winona contract, the differences have been explained in terms of easily verifiable factual differences between the qualifying facilities. Accordingly, the Commission will approve the Agreement, as clarified above.

ORDER

1. The Agreement between Cyprus Silver Bay Power Company (CSBP) and Northern States Power Company (NSP) is approved, as clarified in this Order.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)